

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

BAO GUO ZHANG, GUOYI WANG,  
TONG WEI WU, ZHI QIANG LU,  
CHENG XIA WANG, CHUNLIN ZHANG,  
JUN QING ZHAO, and ZE JUN ZHANG a/k/a  
Zejun Zhang, *on behalf of themselves and others  
similarly situated, and*

YA QIANG ZHANG, JUN LING ZHAO,  
HUI MIN ZHAO, JING GUAN, HUI LIANG  
ZHAO, and LI WENG, *on behalf of themselves and  
others similarly situated,*  
Plaintiffs,

Plaintiffs,

v.

SHUN LEE PALACE RESTAURANT, INC. D/B/A  
SHUN LEE PALACE; T&W RESTAURANT, INC.  
D/B/A SHUN LEE WEST; T&W PAYROLL  
SERVICES, INC., JOHN HWANG; MICHAEL  
TONG; BIN HU; AND WILLIAM HWANG

Defendants.

Case No. 17-cv-00840

**DECLARATION OF ELI Z.  
FREEDBERG IN SUPPORT OF  
DEFENDANTS' MOTION FOR  
SANCTIONS AND  
ATTORNEYS' FEES AGAINST  
TROY LAW, PLLC AND JOHN  
TROY**

Eli Z. Freedberg, an attorney duly admitted to practice before the Courts of the State of New York, hereby affirms under penalty of perjury:

1. I am a shareholder of the law firm of Littler Mendelson, P.C., counsel for the Defendants Shun Lee Palace Restaurant, Inc., T & W Restaurant, Inc., T & W Payroll Services, Inc., Michael Tong, Bin Hu, John Hwang, and William Hwang (collectively, "Defendants") in the above-captioned action. By virtue of my representation of Defendants in this action, I have become familiar with the facts and circumstances at issue herein. This Declaration is respectfully submitted in support of Defendants' Motion for Sanctions and Attorneys' Fees against Troy Law, PLLC and John Troy ("Defendants' Motion"). Troy Law, PLLC and John Troy are hereinafter collectively referred to as "Troy Law".

2. On February 16, 2021, the Court set forth the following Order:

Defendants are directed to submit, in support of their motion for sanctions, sworn affidavits verifying time records and attorneys' costs associated with defending against Troy Law's opposition to the settlements of Chun Lin Zhang and Bao Guo Zhang and related motion for reconsideration. (*See* Dkt. 209.)

3. For the Court's convenience, the relevant timeline for the purposes of Defendants' request for attorneys' fees in connection with "defending against Troy Law's opposition to the settlements of Chunlin Zhang and Bao Guo Zhang and the related motion for reconsideration" is between September 6, 2020 and November 2, 2020 (as reflected in the docket entries of this case below):

|            |                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|------------|---------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 09/06/2020 | <a href="#">199</a> | Objection re: <a href="#">192</a> Status Report <i>Opposition to Defendants and Plaintiffs Chunlin Zhangs and Baoguo Zhangs Motion for Settlement</i> . Document filed by Mingsung Chan, Steven Cheung, Leungtack Choi, Tsunming Fong, Keeyew Foo, Zhiqiang Lu, Billy Qin, Guoyi Wang, Monaliza Wong, Terry Wong, Haiping Wu, Tong Wei Wu, Guoliang Xu, Quekyeow Yap, Fong Yue, Shude Zhang, Weijun Zhen..(Schweitzer, Aaron) (Entered: 09/06/2020) |
| 09/11/2020 | <a href="#">200</a> | LETTER addressed to Judge Vernon S. Broderick from Eli Freedberg dated September 11, 2020 re: Response to Troy Law's letter dated Sept 6, 2020 (Dkt No. 199). Document filed by Bin Hu, John Hwang, William Hwang, Shun Lee Palace Restaurant, Inc., T & W Payroll Services, Inc, T & W Restaurant, Inc., Michael Tong..(Freedberg, Eli) (Entered: 09/11/2020)                                                                                      |
| 09/14/2020 | <a href="#">201</a> | MEMO ENDORSEMENT on re: <a href="#">199</a> Objection. ENDORSEMENT: APPLICATION DENIED. (Signed by Judge Vernon S. Broderick on 9/14/2020) (jwh) (Entered: 09/14/2020)                                                                                                                                                                                                                                                                              |
| 09/28/2020 | <a href="#">202</a> | MOTION for Reconsideration re; (201 in 1:17-cv-00840-VSB) Memo Endorsement . Document filed by John Troy.Filed In Associated Cases: 1:17-cv-00840-VSB, 1:19-cv-03094-VSB.(Troy, John) (Entered: 09/28/2020)                                                                                                                                                                                                                                         |
| 09/28/2020 | <a href="#">203</a> | AFFIRMATION of John Troy in Support re: (38 in 1:19-cv-03094-VSB, 202 in 1:17-cv-00840-VSB) MOTION for Reconsideration re; (201 in 1:17-cv-00840-VSB) Memo Endorsement .. Document filed by John Troy. Filed In Associated Cases: 1:17-cv-00840-VSB, 1:19-cv-03094-VSB.(Troy, John) (Entered: 09/28/2020)                                                                                                                                           |
| 09/28/2020 | <a href="#">204</a> | MEMORANDUM OF LAW in Support re: (38 in 1:19-cv-03094-VSB, 202 in 1:17-cv-00840-VSB) MOTION for Reconsideration re; (201 in 1:17-cv-00840-VSB) Memo Endorsement . . Document filed by John Troy. Filed In Associated Cases: 1:17-cv-00840-VSB, 1:19-cv-03094-VSB.(Troy, John) (Entered: 09/28/2020)                                                                                                                                                 |

|            |                     |                                                                                                                                                                                                                                                                                                                                                                                                     |
|------------|---------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 10/12/2020 | <a href="#">205</a> | CROSS MOTION for Sanctions & Attorneys Fees Against Troy Law PLLC and John Troy. Document filed by Bin Hu, John Hwang, William Hwang, Shun Lee Palace Restaurant, Inc., T & W Payroll Services, Inc, T & W Restaurant, Inc., Michael Tong..(Freedberg, Eli) (Entered: 10/12/2020)                                                                                                                   |
| 10/12/2020 | <a href="#">206</a> | MEMORANDUM OF LAW in Support re: <a href="#">205</a> CROSS MOTION for Sanctions & Attorneys Fees Against Troy Law PLLC and John Troy. And In Opposition to Plaintiff's Motion for Reconsideration. Document filed by Bin Hu, John Hwang, William Hwang, Shun Lee Palace Restaurant, Inc., T & W Payroll Services, Inc, T & W Restaurant, Inc., Michael Tong..(Freedberg, Eli) (Entered: 10/12/2020) |
| 10/19/2020 | <a href="#">207</a> | REPLY MEMORANDUM OF LAW in Support re: <a href="#">202</a> MOTION for Reconsideration re; (201 in 1:17-cv-00840-VSB) Memo Endorsement . . Document filed by Zhi Qiang Lu, Guoyi Wang, Tong Wei Wu..(Troy, John) (Entered: 10/19/2020)                                                                                                                                                               |
| 11/02/2020 | <a href="#">208</a> | REPLY MEMORANDUM OF LAW in Support re: <a href="#">205</a> CROSS MOTION for Sanctions & Attorneys Fees Against Troy Law PLLC and John Troy. . Document filed by Bin Hu..(Freedberg, Eli) (Entered: 11/02/2020)                                                                                                                                                                                      |

4. Attached hereto as **Exhibit A** is a true and correct redacted copy of Defendants' October 16, 2020 invoice from my firm Littler Mendelson, P.C. In preparing a response to Troy Law's opposition to the settlement of Chunlin Zhang and Bao Guo Zhang and reviewing Troy Law's motion for reconsideration after the Court denied Troy Law's application, I spent a total of 3.9 hours at a rate of \$585 per hour and my associate Kevin Yam spent a total of 3.8 hours at a rate of \$455 per hour. The breakdown of the time worked is as follows<sup>1</sup>:

**September 2020 Hours (October 16, 2020 Invoice)**

|          |     |                                                                                                                                                                                                    |            |
|----------|-----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| 09/06/20 | KKY | Review Troy Law's objection letter to settlement agreement with Chunlin Zhang and Bao Guo Zhang.                                                                                                   | 0.20       |
| 09/08/20 | EZF | Participate in teleconference with [REDACTED] Kevin Yam to discuss [REDACTED] strategy for responding to Troy law's objections to the first round of settlement [REDACTED].                        | 0.60       |
| 09/08/20 | KKY | [REDACTED] prepare for and conduct teleconference with Eli Freedberg [REDACTED] re Defendants' response to Troy Law's objection to settlement of Chunlin Zhang and Bao Guo Zhang (0.8); [REDACTED] | [REDACTED] |

|            |            |                                                                                                                                                                                    |            |
|------------|------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| 09/09/20   | KKY        | Review draft Defendants' response to Troy Law's objection to Chunlin Zhang's and Bao Guo Zhang's settlement agreement.                                                             | 0.20       |
| 09/10/20   | KKY        | Edit Defendants' response to Troy Law's objection to Plaintiffs' Chunlin Zhang's and Bao Guo Zhang's Settlement agreement, and emails with Eli Freedberg re same (0.7); [REDACTED] | [REDACTED] |
| 09/10/20   | EZF        | Revise letter in response to Troy Law's letter objecting to settlement of Plaintiffs Chunlin Zhang and Bao Guo Zhang.                                                              | 0.80       |
| 09/11/20   | EZF        | Finalize researching and drafting letter opposing Troy Law's application to require judicial approval of NYLL settlement.                                                          | 1.60       |
| 09/11/20   | KKY        | Review finalized letter response to Troy Law's objection; emails with Eli Freedberg [REDACTED] re same [REDACTED]                                                                  | 0.40       |
| 09/14/20   | EZF        | Review court order allowing settlement of Chunlin Zhang and Bao Guo Zhang's claims without needing court approval [REDACTED]                                                       | 0.20       |
| [REDACTED] | [REDACTED] | [REDACTED]                                                                                                                                                                         | [REDACTED] |
| 09/29/20   | EZF        | Devise strategy to oppose Troy Law's motion for reconsideration of court's order authorizing the settlement without court approval.                                                | 0.40       |
| 09/29/20   | KKY        | Review and analyze Troy Law's motion for reconsideration; and email Eli Freedberg and Maayan Deker re same as well and calendar deadline to respond.                               | 1.10       |
| 09/30/20   | KKY        | Emails with Eli Freedberg re response deadline to motion for reconsideration (0.2); and begin preparing opposition to same (0.2).                                                  | 0.40       |
| 09/30/20   | EZF        | Prepare strategy to oppose motion for reconsideration.                                                                                                                             | 0.30       |

**Totals: KKY (Kevin Yam) 3.8 hours**  
**EZF (Eli Freedberg) 3.9 hours**

(See Exhibit A.) As a result, Defendants were unnecessarily forced to incur \$4,010.50 in legal fees in the October 16, 2020 invoice due to Troy Law's frivolous conduct.

5. Attached hereto as **Exhibit B** is a true and correct redacted copy of Defendants'

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<sup>1</sup> The timekeeper EZF is me, Eli Freedberg, and the timekeeper KKY is my associate Kevin Yam.

November 10, 2020 invoice from Littler Mendelson, P.C. In preparing an opposition to Troy Law's motion for reconsideration and Defendants' cross-motion for sanctions and attorneys' fees against Troy Law, I spent a total of 4.4 hours at a rate of \$585 per hour and my associate Kevin Yam spent a total of 7.7 hours at a rate of \$455 per hour. The breakdown of the time worked is as follows:

**October 2020 Hours (November 10, 2020 Invoice)**

|          |     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |      |
|----------|-----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|
| 10/07/20 | KKY | Begin drafting memorandum of law in opposition to Troy Law's motion for reconsideration and in support of cross-motion for sanctions and attorneys' fees and costs against Troy Law and John Troy.                                                                                                                                                                                                                                                                                                  | 0.50 |
| 10/09/20 | KKY | Continue editing and finish draft of memorandum of law in opposition to Troy Law's motion for reconsideration and in support of cross-motion for sanctions and attorneys' fees and costs against Troy Law and John Troy; and send same to Eli Freedberg and Maayan Deker for review and comments.                                                                                                                                                                                                   | 4.80 |
| 10/09/20 | EZF | Revise memo of law in opposition to Plaintiff's motion for reconsideration seeking approval of the settlement with Chunlin Zhang and Bao Guo Zhang.                                                                                                                                                                                                                                                                                                                                                 | 3.40 |
| 10/12/20 | KKY | Edit and proofread draft of memorandum of law in opposition to Troy Law's motion for reconsideration and in support of cross-motion for sanctions and attorneys' fees and costs against Troy Law and John Troy, and add citations to support legal argument (1.6); send same to Maayan Deker for final review and messages re same (0.2); draft notice of cross-motion (0.3); and emails to Ida Martinez and Darayl Levy re drafting TOCs and TOAs and filing finalizing papers respectively (0.1). | 2.20 |
| 10/12/20 | EZF | Complete drafting revisions to memo of law in opposition to motion for reconsideration and in support of motion for sanctions.                                                                                                                                                                                                                                                                                                                                                                      | 0.70 |
| 10/19/20 | KKY | Review Troy Law's reply in further support of their motion for reconsideration and in opposition to Defendants' motion for sanctions.                                                                                                                                                                                                                                                                                                                                                               | 0.20 |
| 10/19/20 | EZF | Review Plaintiffs' opposition to motion for sanctions.                                                                                                                                                                                                                                                                                                                                                                                                                                              | 0.30 |

|                                |                  |
|--------------------------------|------------------|
| <b>Totals: KKY (Kevin Yam)</b> | <b>7.7 hours</b> |
| <b>EZF (Eli Freedberg)</b>     | <b>4.4 hours</b> |

(See Exhibit B.) As a result, Defendants were unnecessarily forced to incur \$6,077.50 in legal fees in the November 10, 2020 invoice due to Troy Law’s frivolous conduct.

6. In sum, Defendants incurred a total of \$10,088.00 in legal fees “defending against Troy Law’s opposition to the settlements of Chunlin Zhang and Bao Guo Zhang and the related motion for reconsideration.”

7. Finally, for the Court’s reference, I am a 2002 J.D. graduate from Yeshiva University Benjamin N. Cardozo School of Law. I was admitted to practice in New York in 2003 and before the Southern District of New York (“SDNY”) in 2003. I am a shareholder at Littler Mendelson, P.C., and have over a decade of management-side labor and employment law experience. My main practice area is wage-and-hour class and collective action litigation under the Fair Labor Standards Act (“FLSA”) and the New York Labor Law (“NYLL”) and have litigated dozens of these FLSA/NYLL actions during my career.

8. My associate Kevin Yam is a 2014 graduate of SUNY Buffalo Law School. He was admitted to practice in New York in 2015 and before the SDNY in 2015. Mr. Yam is a senior associate at Littler Mendelson, P.C., and has 7 years of management-side labor and employment law experience. His main practice area is wage-and-hour class and collective action litigation under the FLSA and the NYLL, and he has previously served as first-chair counsel on behalf of an employer in a FLSA/NYLL action in a five-day jury trial in the SDNY.

9. Accordingly, Defendants respectfully request that the Court award them \$10,088.00 as sanctions and attorneys’ fees against Troy Law due to their sanctionable and frivolous tactics in litigating this case. For the Court’s reference, there is an entire body of case law in this Circuit documenting Troy Law’s history of improper litigation conduct and numerous District Court’s award of sanctions and attorneys’ fees against them. *See Jianjun Chen v. 2425*

*Broadway Chao Rest., LLC*, No. 1:16-CV-5735-GHW (Dkt. 209, p. 4) (S.D.N.Y. June 28, 2019) (awarding \$49,920.00 to Defendants as a sanctions award against Troy Law); *Jianjun Chen v. 2425 Broadway Chao Rest., LLC*, No. 1:16-CV-5735-GHW, 2019 WL 2250336, at \*5–6 (S.D.N.Y. May 24, 2019) (“Mr. Troy is sanctioned, and the T.Y. Wang Defendants are awarded 50% of the reasonable fees and costs associated with their motion for summary judgment, and 100% of the reasonable fees and costs associated with their motion for sanctions.”); *Ji Li v. Ichiro Restaurant Inc.*, No. 14-cv-10242-AJN (Dkt. 285, p. 25) (S.D.N.Y. April 30, 2020) (“The Court sanctions the Ji Li Plaintiffs’ counsel [Troy Law] for continuing to press forward with claims against the Westchester Defendants after their counsel, Mr. Xue, made a Rule 50 motion, but it reserves judgment on the amount.”); *Chun Lan Guan v. Long Island Bus. Inst., Inc.*, No. 15CV2215CBAVMS, 2019 WL 3807455, at \*1, 3 (E.D.N.Y. Aug. 13, 2019) (“After reviewing the parties’ submissions, Magistrate Judge Scanlon sanctioned Troy Law under Rule 16(f) for failure to obey a scheduling and other pretrial order and directed Troy Law to pay Defendants’ attorneys’ fees for time spent in conjunction with the JPTO and the sanctions motion...The Sanctions Order was issued “against a background of Plaintiffs’ counsels’ troubling conduct” in this litigation.”)

**WHEREFORE**, based on the detailed time records of Defendants’ counsel’s attached invoices and Troy Law’s frivolous conduct in this litigation, Defendants respectfully request that the Court grant them their requested attorneys’ fees against Troy Law, together with such other and further relief as the Court deems just and proper.

Date: March 18, 2021  
New York, New York

/s/ Eli Z. Freedberg

Eli Z. Freedberg

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